IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No.675 of 2006

Date of decision 8.5..2007

Tanglu Ram and others Petitioners

Vs.

State of H.P. and ors. Respondents

Coram:

The Hon'ble Mr.Justice Rajiv Sharma, Judge.

Whether approved for reporting?[1] No.

For the Petitioner: Mr. Ravinder Thakur, Advocate.

For the Respondents : Mr.M.S.Chandel, Advocate General, with Mr.M.A.Khan and Ms.Meenakshi Sharma, Deputy Advocate Generals, for respondents No.1 and 2.

Rajiv Sharma, J.(Oral)

The brief facts necessary for the adjudication of this petition are that the petitioner and proforma respondents were owners in possession of land comprised in Khata Khatauni No.107/271min bearing Khasra No.189, measuring 002-12 hects and Khasra No.190, measuring 002-50 hects Kiyar abal situated in Mouja Nirath, Tehsil Rampur District Shimla. Out of aforesaid Khasra No.189 land measuring 0-00-37 hects identified and shown by Khasra No.189/1 and out of Khasra No.190, land measuring 0-01-13 hects Kiyar abal denoted by Khasra No.190-1 had been acquired by the State of Himachal Pradesh for the construction of National High Way No.22 vide notification dated 6.6.2003.

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[1] Whether reporter of local papers are allowed to see the judgment ? No..

The learned Land Acquisition Collector had passed the award in case No.RMP-10/96 2284-88 dated 11.6.2005. The petitioner along with proforma respondents moved an application dated 29.3.2006 before the Land Acquisition Collector for making reference to the learned District Judge for determination of amount of compensation. The Land Acquisition Collector vide order dated 22.7.2006 refused to make reference under Section 18 of the Land Acquisition Act being time barred.

Mr.Ravinder Thakur, learned counsel appearing for the petitioner, submits that the order dated 22.7.2006 passed by the Land acquisition Collector is not sustainable in the eye of law. Whereas Mr.M.S.Chandel, learned Advocate General has supported the order dated 22.7.2006.

I have heard the learned counsel for the parties and have also gone through the record.

The learned Land Acquisition Collector has adopted very technical approach while dealing with the application preferred by the petitioner seeking reference under Section 18 of the Land Acquisition Act to the learned District Judge, Kinnaur Division at Rampur Bushahr. Mr. Ravinder Thakur submits that his client came to know about the date of payment of compensation only in the morning of 22.2.2006 and till that date he was not aware about the passing of the award by the Land Acquisition Collector. Thereafter the petitioner as advised attended the office of the Land Acquisition Collector on 22.2.2006 and on enquiry from the subordinate staff the petitioner was advised to appear on 23.3.2006 for receipt of payment. Mr.Thakur further submits that the notice was received under Section 12(2) by his client's daughter who is married and lives in Village Barkeli Tehsil Rampur District Shimla whereas the petitioner is tailor by profession and lives at Reckong Peo. It is not clear from Annexure R-3 that when daughter of petitioner Smt.Shanti Devi had received the notice and thereafter under what circumstances on the same

notice the signatures of the petitioner were also obtained. Against the signatures of Smt.Shanti Devi it is pointed out that she is daughter of the petitioner. It is thus evident that it was only the petitioner's daughter who has received the notice and the petitioner has not received the notice since he was living at Reckong Peo.

The Land Acquisition Collector has mentioned in his order dated 22.7.2006 that the award was pronounced on 10.5.2005 but the petitioner was not present at the time of announcement of the award. The learned Land Acquisition Collector has not taken into consideration the very material fact whether it was the petitioner or his daughter who had received the notice under Section 12(2) of the Land Acquisition Act,1894. The reasons assigned by the petitioner for approaching the Land Acquisition Collector beyond the period of limitation were plausible, convincing and cogent and were required to be accepted by the Land Acquisition Collector.

The upshot of the above discussion is that the order dated 22.7.2006 liable to be quashed and set aside. Accordingly this petition is allowed and order dated 22.7.2006 is quashed and set aside. The respondent No.2 is directed to make reference to the learned District Judge, Kinnaur Division at Rampur Bushar District Shimla as per Annexure P-1.

May 8,2007 (g) **(Rajiv Sharma), J.**